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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re A.A., a Person Coming Under the Juvenile
Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

A.A.,

Defendant and Appellant.

F056767

(Super. Ct. No. JJD063390)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Valeriano Saucedo, Judge.

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez, Lloyd G. Carter and Lewis A. Martinez, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Vartabedian, Acting P.J., Levy, J. and Cornell, J.

The juvenile court readjudged appellant A.A. a ward of the court after it sustained allegations charging her with making a criminal threat (Pen. Code, § 422). On December 1, 2008, the juvenile court set A.A.'s maximum term of confinement at three years and committed her to the youth correctional center for a period of 168 to 365 days.

On appeal, A.A. contends the juvenile court violated her right to confrontation when it limited defense counsel's cross-examination. We will affirm.

FACTS

A.A.'s mother, R.A., was the main prosecution witness. Prior to the start of A.A.'s adjudication hearing, the prosecutor moved to exclude several of R.A.'s 1988-1990 misdemeanor convictions for prostitution and petty theft and a 1999 conviction for receiving stolen property. The defense argued the convictions were relevant with respect to R.A.'s veracity, bias, and propensity to exaggerate to absolve herself of the responsibility of caring for A.A. and to show that R.A. was not well disposed toward A.A. and had mixed feelings about her role as a mother. After hearing argument, the juvenile court ruled the defense could introduce evidence only of R.A.'s 1999 receiving stolen property conviction because the other convictions were too remote.

During the adjudication hearing, R.A. testified that A.A. started living with her in July 2008. On October 15, 2008, A.A. had midterms at school that she did not take. A.A. arrived at the house that day with a 40-ounce bottle of beer and sat on the couch in the living room. When R.A. told A.A. she could not be drinking because she was 17, A.A. stated, "Get the fuck out of my face, bitch. I don't feel like talking about this right now." R.A. walked away but soon returned and told A.A. that she could not be drinking because she was 17 and that she could not talk to her that way. A.A. knocked a box of cereal off the coffee table and replied, "F you bitch." A.A. then got up, walked R.A. into the kitchen, and said, "I don't need this f'g shit and you can't f'g tell me what to do."

R.A. told A.A. that she (R.A.) would have to call the police if she kept it up because she was not going to let her behave that way. A.A. grabbed a knife that had an

eight-inch blade and replied that she was going to cut up numerous paintings by R.A. that adorned the house. As R.A. began calling the police, A.A. pointed the knife at the paintings and at R.A., brandished it in a circular motion and stated, “I’ll slice up all these paintings and then I’ll say you came after me.” “[T]hen I’ll get you and I’ll just tell the police that you came after me first.” “I’m not threatening you. I’m promising you.”

R.A. was afraid of A.A. because A.A. pushed her around the house, got up in her face, called her names, and told R.A. that there was nothing R.A. could do. R.A. had contacted the police and mental health services on prior occasions.

During cross-examination, R.A. testified that A.A. had lived with her until age four, when her father stole her from R.A. According to R.A., at age five A.A. went missing and was sexually exploited until she was found. At age seven, A.A. tried to stab another girl in the face. She was subsequently diagnosed with reactive attachment disorder, bipolar disorder, and schizophrenia and placed in group homes so she could get treatment.

A.A. did not live with R.A. again until A.A. was 17. In the interim, R.A. saw A.A. from one to three times a week. A.A. was allowed to go home on the weekends, so she was placed in softball and soccer activities and provided with guitar lessons. R.A. had a good relationship with A.A. during that time. R.A. begged “them” to address A.A.’s issues, but A.A.’s father did not want them addressed. A.A. wanted to go with her father instead of with R.A. because her father was a “pushover” and R.A. was strict and had rules. R.A. and A.A.’s father spent \$37,000 on A.A.’s case during the 13 years A.A. was in the custody of the state.¹

¹When the defense asked R.A. whether A.A. had cost her a lot of money, the prosecutor objected on relevance grounds. The juvenile court asked defense counsel what the relevance was and he replied that it went to the question of bias and how reliable R.A.’s testimony was because she may have resented having had to subsidize A.A.

In July 2008, A.A. was released from juvenile hall and went to live with her aunt. That lasted only three days, however, before she was thrown out. Afterwards, A.A.'s father called R.A. and asked if R.A. could take A.A.; R.A. agreed. A.A.'s father said A.A. could not stay with him because his wife was scared of her and no one else at his house wanted her there. R.A. told him to bring A.A. to her house and they would figure things out. After arriving at R.A.'s house, A.A. did not want to stay and cried because her father had told her that R.A. had rules at her house and control issues.²

A.A. had not resolved her issues when she went to live with R.A. She was suicidal and severely bipolar and, the day after arriving, she wanted to threaten and hurt somebody. Additionally, R.A. had to call Erica Soto at child protective services (CPS) every other day because she did not know if what she was doing was helping A.A. or hurting her. R.A. was not afraid of A.A. until after she had been with her three weeks. She then contacted the police department and CPS, but they did not have the details of A.A.'s history and did not see a problem with A.A. or do anything.

R.A. had many confrontations with A.A. between August and the date of her arrest on the instant charge. On one occasion, R.A. called the police after A.A. chased a woman down the street with a knife. The police, however, did not arrest A.A. that night because she and the other woman were fighting with each other. R.A. called the police on other occasions because A.A. was getting drunk and "loaded" in the house, and R.A. did not want A.A. to think that she condoned that behavior. The officers told R.A. they did not arrest minors for being drunk or under the influence of drugs at home.

A.A. testified that she was first placed in a group home when she was five years old and remained in group homes until she was 11. At age 12 she was arrested and

²The juvenile court sustained the prosecutor's objection to defense counsel's question to R.A. whether A.A.'s father told her why he did not want A.A. at his house. In arguing against the objection, defense counsel stated that the question was relevant to show what R.A.'s "attitude might have been."

placed on probation. Afterwards, she was in and out of juvenile hall and group homes. On July 23, 2008, A.A. left the “juvenile system” when she went off probation. A.A. then went to live with her aunt, but that did not work out. A.A. went to live with her grandmother for a week and then her father took her to Porterville to live with her mother.

A.A. graduated from high school and had planned to join the military. After the military turned her down because of her weight, however, she decided to go to Porterville Junior College, where she enrolled in 15 units. A.A. went to live with her mother to get her weight under control. She thought she could do that there because her sister ran track and she could run in the mountains to get in shape. She experienced minor problems with her mother, and every time her mother would call the police. The worst these incidents ever got was that she and R.A. would raise their voices at each other. A.A. also testified that R.A. would allow her to smoke marijuana in order to self-medicate her bipolar disorder.

According to A.A., she did not drink beer and was not drinking beer the night she was arrested. After getting her friend’s car impounded in Springville that day, the friend gave A.A. a ride to Porterville after R.A. refused. On the way, the friend bought a 40-ounce bottle of beer. When he dropped her off, he told A.A. to give it to him the following day after he got off work. A.A. was mad at R.A. because she did not give her a ride. When R.A. confronted her about drinking and having gotten her friend’s car impounded, A.A. threw a box of cereal. After they began arguing, R.A. called the police and told them that A.A. had grabbed a knife and threatened her. A.A. denied picking up a knife, threatening R.A., or threatening to cut up her paintings.

DISCUSSION

A.A. contends that if the juvenile court had allowed her to inquire about R.A.'s extensive criminal history, it would have undermined her "virtuous self-portrayal as a strict disciplinarian whose high standards were offended by dishonesty and or alcohol use." She further contends that the juvenile court erred in not allowing her defense counsel to inquire into certain areas discussed *post*. According to A.A., inquiry into these areas would have shown that R.A. had a motive to exaggerate the events leading up to A.A.'s arrest and, by denying inquiry into them and into R.A.'s criminal history, the juvenile court violated her constitutional right to confrontation. We will reject these contentions.

"It is well established that a trial court is vested with wide discretion in determining relevance and weighing the prejudicial effect of evidence against its probative value. Evidentiary rulings will not be overturned on appeal in the absence of a clear abuse of that discretion, upon a showing that the trial court's decision was palpably arbitrary, capricious, or patently absurd, and resulted in injury sufficiently grave as to amount to a miscarriage of justice. [Citations.]

"Under the Sixth Amendment to the United States Constitution, a defendant has the constitutional right to confront the witnesses against him and to cross-examine his accusers. A criminal defendant states a violation of the confrontation clause by showing that he was prohibited from engaging in otherwise appropriate cross-examination designed to show bias on the part of the witness, and thereby to expose facts from which the jury could appropriately draw inferences relating to the reliability of the witness. [Citations.]

"Nevertheless, a trial court retains broad discretion over the conduct of trial. In the context of its duty to supervise the questioning of trial witnesses, it has wide discretion to limit questions that are marginally relevant and cumulative. Although the exposure through cross-examination of a witness's motivation in testifying is a proper and important function of the constitutionally protected right of confrontation, the confrontation clause does not prevent a trial court from imposing reasonable limits on a defense counsel's inquiry into the potential bias of a prosecution witness. [Citation.] 'On the contrary, trial judges retain wide latitude insofar as the

Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant.' [Citations.]

“The confrontation clause simply guarantees an *opportunity* for effective cross-examination; it does not assure a chance to cross-examine in whatever way, and to whatever extent, the defense might wish. [Citations.] As long as the cross-examiner has the opportunity to place the witness in his or her proper light, and to put the weight of the witness's testimony and credibility to a reasonable test which allows the fact finder fairly to appraise it, the trial court may permissibly limit cross-examination to prevent undue harassment, expenditure of time, or confusion of the issues. [Citations.]” Thus, a trial court's exercise of discretion to exclude evidence does not implicate or infringe a defendant's federal constitutional right to confront the witnesses against him, unless the prohibited cross-examination might reasonably have produced a significantly different impression of the witness's credibility. [Citations.]” (*In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1385-1386.)

Preliminarily we reject A.A.'s contention that the juvenile court abused its discretion by not allowing the defense to introduce evidence that R.A. had been convicted of prostitution. A.A. primarily argued at the hearing on the prosecutor's motion in limine that the prostitution convictions were relevant to impeach R.A.'s credibility. On appeal, A.A. argues that R.A.'s prostitution convictions would somehow show that R.A. was not a virtuous person who was strict and had rules and was offended by dishonesty and alcohol consumption. “[S]ince the ground asserted for admitting the [evidence] was not raised before the trial court, it may not be considered now for the first time. [Citation.]” (*People v. Phillips* (1985) 41 Cal.3d 29, 50-51 (*Phillips*)). “A contrary rule would enable a party secretly to reserve a means of reversal in case the judgment went against him.” (*People v. Lancaster* (1957) 148 Cal.App.2d 187, 196.)

In any event, the excluded convictions were irrelevant because R.A. never claimed that she did not allow A.A. to drink alcohol because it offended her moral sensibilities or that A.A. was dishonest. Instead, all the record reflects is that R.A. did not want A.A. to drink because she was a minor and probably because it exacerbated the behavioral

problems caused by A.A.'s medical conditions. Additionally, there is no apparent relationship between R.A. having suffered these convictions in the late 1980's and her parenting skills in 2008. Thus, even if this issue were properly before us, we would reject it.

A.A. contends the juvenile court erred when it sustained the prosecutor's relevance objection to defense counsel's question whether A.A. "cost [her] a lot of money." According to A.A., this prevented her from showing that R.A. resented A.A. and had a financial motive to exaggerate the events on the day A.A. was arrested. The juvenile court sustained this objection after R.A. reiterated her testimony that A.A. had cost R.A. and A.A.'s father \$37,000, apparently while in the state's care. (See Welf. & Inst. Code, § 903.) Thus, the answer the question sought was cumulative because the record already established that having A.A. in the care of the state had cost R.A. a substantial amount of money. More importantly, however, by having A.A. arrested, R.A. again was placing her in the care of the state and potentially adding to the \$37,000 she and A.A.'s father had already spent. (*Ibid.*) Thus, the answer was not relevant to establish a financial motive to exaggerate as A.A. contends.

A.A. also contends the juvenile court erred when it did not allow defense counsel to ask R.A. what A.A.'s father told her regarding why he did not want to keep her. A.A. posits that this would have shown that R.A. was resentful that A.A.'s father refused to take responsibility for her, that he conveyed the impression that A.A. was a troublesome child, and that it predisposed R.A. to find her difficult to deal with. A.A. also forfeited this argument by her failure to raise it in the trial court. (*Phillips, supra*, 41 Cal.3d at p. 51.) In any case, the information A.A. sought through this question was cumulative because R.A. already had testified that A.A.'s father did not want to take in A.A. because nobody at his house wanted her there. Further, R.A.'s alleged resentment of A.A.'s father was irrelevant because defense counsel never explained why it would have caused R.A. to want to remove A.A. from her home, especially when she voluntarily allowed her

to live there in the first place. In fact, A.A. never testified that R.A. resented her being there. Moreover, the record established that R.A. already was well aware of the difficulties she could expect to encounter by having A.A. in her household. Thus, the juvenile court did not err when it limited defense counsel's examination in this area.

A.A. also contends the juvenile court erred when it did not allow defense counsel to ask R.A. what the officers told her after she informed them she was afraid of A.A. According to A.A., what they told her may have given R.A. a reason to make the case more compelling the next time she called police about an incident in the house in order to get rid of A.A. by having her arrested. R.A., however, testified that she was afraid of A.A. and that the police already had told her they would not arrest A.A. simply for being drunk or under the influence of drugs at home. Additionally, R.A. testified that the officers did not arrest A.A. after an incident when she chased a woman on the street with a knife. Thus, whatever else the officers told R.A. would have been cumulative because R.A.'s fear of A.A. and the police's failure to arrest A.A. during prior incidents already provided R.A. with a potential motive to exaggerate the extent of her final argument with A.A. before A.A.'s arrest. Accordingly, we reject A.A.'s contention that the juvenile court violated her constitutional right to confrontation when it limited defense counsel's cross-examination into the areas discussed *ante*.

DISPOSITION

The judgment is affirmed.